



REMARKS

Claim 6 has been cancelled as being drawn to a non-elected invention. After this amendment the pending claims are 1-5.

***Rejection under 35 U.S.C. § 102***

Claims 1-5 were rejected under 35 U.S.C. §102(b) as being anticipated by Kimura *et al.* (1998. J. Biol. Chem. 273(3): 1654-1661). The Examiner alleges that Kimura *et al.* teach an isolated nucleic acid molecule from *Fusarium graminearum* encoding Trichothecene 3-0-acetyltransferase which “appears to be the same as the claimed nucleotide sequence.” Applicants respectfully disagree.

Applicants’ claimed nucleotide sequence, SEQ ID NO: 5, is not identical to the nucleotide sequence taught by Kimura *et al.*, which is disclosed on page 1659. There are 10 differences between the two sequences as shown in the enclosed sequence alignment marked Exhibit A. These 10 nucleotide differences lead to four differences between Applicants’ claimed amino acid sequence, SEQ ID NO: 6 and the amino acid sequence disclosed in Kimura *et al.* on page 1659, as shown by the amino acid sequence alignment marked Exhibit B.

To make it convenient for the Examiner, a copy of Kimura *et al.* (marked as Exhibit C) is enclosed wherein Applicants have highlighted the nucleotides and amino acids in Figure 4 on page 1659 which are different from the corresponding nucleotides and amino acids of the claimed sequences of the instant application.

Applicants respectfully submit that Kimura *et al.* do not disclose an isolated nucleic acid molecule comprising a nucleotide sequence that encodes SEQ ID NO: 6 nor do they disclose a nucleic acid molecule comprising SEQ ID NO: 5. Therefore, the disclosed sequences in Kimura *et al.* cannot anticipate the claimed sequences of the instant invention.

In view of the above remarks, Applicants respectfully request that the rejection of claims 1-5 under 35 U.S.C. § 102(b) be withdrawn.



### CONCLUSION

Applicants respectfully submit that this application is now in a condition for allowance. If the Examiner has any further concerns and believes a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,

Gregory W. Warren  
Agent for Applicants  
Reg. No. 48,385  
Telephone: 919-541-8646

Syngenta Biotechnology, Inc.  
3054 Cornwallis Road  
Research Triangle Park, NC 27709  
Date: May 6, 2005